



State Senator Joe Zakas
Senate, Statehouse
200 W. Washington
Indianapolis, Indiana 46204

Prst Std
U.S. Postage
PAID
Indianapolis, IN
Permit No. 7767

STATE SENATOR JOE ZAKAS

An Update on the Indiana General Assembly

Dear Friends:

Summer 2002

The *special* session of the Indiana General Assembly called by Gov. O'Bannon ended on June 23rd. Although much legislation passed during the *regular* session which ended on March 14th, the Governor called for the special session to increase taxes to shore up the state budget. Further, the Governor stated that he wanted the legislature to lessen the impact of real estate tax increases on homeowners that would result from a court-mandated reassessment process, and to improve the tax climate for Indiana businesses to help spur job growth.

This newsletter provides information on the legislation passed during the special session, as well as that which passed during the regular session.

Legislators were very concerned that property owners could be facing higher tax bills by an average of about 13 percent next year as a result of court-ordered changes to Indiana's property assessment method. Although property taxes are determined locally and vary considerably across the state, with the passage of HB 1001, homeowners' property tax bills in 2003 are estimated to average about 13 percent *less* after reassessment is completed. It is important to note that these are estimates and averages. On an individual basis, property taxes will vary, with some having an increase in taxes, and some having a greater decrease in taxes.

Property tax bills in 2003 for agricultural land and for commercial and industrial property should reflect reductions, as well.

HB 1001 calls for the outdated inventory tax to be phased out in no more than five years (sooner if county officials so choose). The measure eliminates other business taxes, increases the state-funded tax credit for research and development, and establishes a new tax credit for venture capital investment. All of these are designed to enhance our ability to retain existing jobs and attract new jobs to Indiana.

Also included in the bill is a first-ever state spending cap. Future state spending must not increase faster than the average growth in personal income. Unfortunately, in my view, the bill did not include a management audit feature to weed out unnecessary government programs or to improve efficiency and responsiveness. Further, I believe the bill should have strengthened our "Rainy Day" Fund in order to improve our ability to weather economic downturns.

The bill increased the state sales tax from 5 percent to 6 percent, raised the cigarette tax from 15.5 cents per pack to 55.5 cents per pack, and increased the business adjusted gross income tax. In addition, Indiana's nine riverboat casinos will pay higher taxes. Oddly, the bill establishes a new state agency to "enhance gaming" in the State of Indiana.

HB 1001 provides an estimated \$600 million per year over the next three years to shore up the budget. Gov. O'Bannon asked for an additional \$1 billion per year for the budget. The balance will have to be made up through budget cuts, an increase in revenue brought about by an improving national and state economy, or by other means.

Although the bill was a compromise, many were concerned that it did not provide sufficient property tax relief, and may lead to further budget cuts and tax increases next year.

Only one bill was considered during the special session. *Many* different measures were debated during the regular session some of which are described in this newsletter. It is my hope that the "Amber Alert" program will assist in locating children who are abducted by strangers. Recent tragic events have underscored the importance of such a program. Further, bills to enhance efforts against terrorism passed, as well.

In addition, the newsletter highlights a success story concerning the use of DNA to exonerate those wrongly imprisoned. A bill passed last year proved to be effective, and justice prevailed.

Many issues were pursued during the regular and special legislative sessions. Please feel free to contact me if you would like to have additional information. It is an honor to serve you in the Indiana Senate. God bless.

Sincerely yours,

Joe



WRITE TO ME AT:
INDIANA
STATEHOUSE
200 W. WASHINGTON
INDIANAPOLIS, IN
46204

PHONE ME AT MY
SENATE OFFICE:
1-800-382-9467

PLEASE EMAIL
MY OFFICE AT:
S11@IN.GOV



(Issues cont'd from previous page)

the United States on September 11 of last year. The bill establishes the **Counterterrorism and Security Council** and improves communication for law enforcement and rescue efforts. **Senator Bill 10** permits a person to use reasonable force to prevent another person from hijacking or seizing an aircraft in flight. The bill also makes it a felony to enter a secured area of an airport, use force or violence to hijack an aircraft in flight or commit criminal confinement on an aircraft.

House Bill 1012 will permit a **victim representative** in a death penalty or life without parole murder case to make a statement concerning the impact of the crime after the judge has pronounced the sentence.

House Bill 1202 would allow school corporations to obtain **limited background checks** and criminal histories on all employees, rather than just new employees as is allowed by current law. It also requires a prosecuting attorney to notify the state superintendent of public instruction and the employer when a licensed employee is convicted of certain offenses. Unfortunately HB 1202 was vetoed by the governor.

Senate Bill 19, also vetoed by the governor, would have allowed churches and religious organizations to maintain **property tax exemptions** that they currently receive. The issue will be studied this summer.

Senate Bill 381 will phase-out the much-scrutinized gasoline additive methyl tertiary butyl ether (MTBE) by July 2004 to ensure **cleaner drinking water** and support Hoosier farmers growing corn for the production of ethanol.

Senate Bill 212 will amend Indiana's Deceptive Sales Act to make it illegal to knowingly sell or resell a product that has been recalled.

House Bill 1013 establishes obligations of landlords and tenants involving dwelling units that are let for rent. It also provides remedies in cases of a dispute for both landlords and tenants. The bill establishes an implied warranty of habitability with regard to rental housing.

House Bill 1101 improves Indiana's **election laws** by including reforms such as allowing people to cast a provisional ballot if they believe they are registered to vote in their precinct, but their names are not listed on the voter rolls. Another reform provides for increased accessibility to voting machines for people with disabilities. Military personnel will have an easier time casting an absentee ballot from overseas.

Senate Bill 213 will permit an emergency medical technician (EMT) or an advanced emergency medical technician to **administer epinephrine** to a person experiencing an allergic reaction or anaphylaxis. The bill also require the emergency medical services commission to establish training and certification standards for administering epinephrine.



SENATOR ZAKAS' LEGISLATIVE SESSION UPDATE

Overview of House Bill 1001, Special Session

Following is a complete run-down of House Bill 1001 from the 2002 special legislative session. The summary shows how the new law will affect individuals, homeowners, renters, business operators, and others.

Tax Restructuring Benefits

- Increases the Homeowners Exemption from \$6,000 to \$35,000 effective January 1, 2003.
- Eliminates 60 percent of School General Fund Levy through state paid Property Tax Replacement Credit effective January 1, 2003 (the state will pay 60 percent of each taxpayer's property tax bill for the School General Fund).
- Establishes a new 20 percent Property Tax Replacement Credit on all real and individual personal property, including mobile homes and individual personal property, effective January 1, 2003.
- Increases the Homestead Credit paid by the state for homeowners to 20 percent effective January 1, 2003 (under existing law, the Credit would have gone to 4 percent beginning 2004).
- Results in an average 26.3 percent statewide reduction in residential property tax rates from current law for homeowners resulting in an average 12.8 percent reduction after reassessment.
- Restructure/Increase Earned Income Tax Credit (EITC) by allowing credit equal to 6 percent of federal credit beginning January 1, 2003, to help low income families offset the increase in the Sales Tax.
- Increases the Renters Deduction by \$500 from \$2,000 to \$2,500, beginning January 1, 2003, to benefit renters who will not automatically share in property tax reduction.

Businesses

- Eliminates 60 percent of School General Fund Levy (see above).
- Establishes a new 20 percent Property Tax Replacement Credit on all real property effective January 1, 2003.
- Provides for adjustments for pay 2003 personal property taxes to offset tax increases for inventory and work in process resulting from the new business personal property reassessment rule (one-year adjustments until the "old rule" can be reestablished in CY 2004).
- Exempts production in process inventory for product to be shipped out of state.
- Returns to the "old" business personal property reassessment rule (with floor) for 2003 pay 2004 taxes by replacing the administration's new rule which represented a huge disincentive for new investment.
- Eliminates remaining Inventory Tax in the fifth year. Gives counties the option to eliminate the Inventory Tax sooner if they pass a County Economic Development Income Tax (CEDIT).
- Average 18.3 percent statewide reduction in property tax rates from current law for agriculture resulting in average 13.2 percent reduction after reassessment.
- Average 23.4 percent statewide reduction in property tax rates for business after reassessment.
- Eliminates the Corporate Gross Income Tax and the Supplemental Net Income Tax effective January 1, 2003.
- Increases the Research and Development Tax Credit from 5 percent to 10 percent and repeals apportionment formula to encourage investment in new technology and creation of high paying jobs.
- Establishes a new Venture Capital Investment Tax Credit to promote the use of "seed money" to encourage new business start-ups.
- Provides \$15 million per year for the 21st Century Research and

Technology Fund, which assists promising research on new methods and products leading to increased high-end employment.

Replacement revenue for tax restructuring

- Establishes a new Utility Receipts Tax at 1.4 percent on regulated receipts effective January 1, 2003.
 - Raises the Adjusted Gross Income Tax (business only) to 8.5 percent and eliminates the Supplemental Net Income Tax effective January 1, 2003.
 - Increases the Sales Tax from 5 percent to 6 percent effective December 1, 2002.
 - Eliminates the existing 20 percent Property Tax Replacement Credit effective January 1, 2003. (The existing credit is replaced with a new 20 percent credit on real property.)
 - Eliminates the existing \$37,500 AV Income Tax Credit effective January 1, 2003.
 - Increases the Cigarette Tax by 40 cents per-pack to 55.5 cents per-pack, and increases tax on other tobacco products by 3 percent effective July 1, 2002.
 - Increase in Riverboat Wagering Tax Rate – 22.5 percent of adjusted gross receipts for riverboats without flexible boarding effective July 1, 2002; graduated rate structure ranging from 15 percent to 35 percent for counties with flexible boarding effective when riverboat begins flexible boarding.
 - Taxes lottery winnings in excess of \$1,200 effective July 1, 2002.
 - Requires withholding on out-of-state riverboat winnings greater than \$1,200 effective July 1, 2002.
 - Caps distributions to Build Indiana Fund at \$250 million per year providing additional funding for the state budget beginning July 1, 2002.
 - Estimated \$1.8 billion to support the budget over first three years.
- ### Gaming provisions
- Permits riverboats to submit a plan for flexible boarding to the Indiana Gaming Commission effective July 1, 2002.
 - No increase in the \$3 Riverboat Admissions Tax.
 - Increase in Riverboat Wagering Tax Rate – 22.5 percent of adjusted gross receipts for non-adopting counties effective July 1, 2002, graduated rate structure ranging from 15 percent to 35 percent for counties opting for flexible boarding effective when riverboats begin flexible boarding.
 - "Revenue Sharing" for counties without riverboats – Caps distributions to state and local entities at current level and creates a \$33 million per year Revenue Sharing Program for local Police and Fire Pensions, Municipal Sewer and Drinking Water Projects or additional property tax reduction.
- ### Spending Controls
- Includes comprehensive State and Local Spending Controls to insure governmental spending does not increase faster than average growth in Indiana Personal Income.
- ### Gas Tax
- Three-cent gas tax increase effective January 1, 2003. Includes one-cent for INDOT/State Highway Fund, one-cent for INDOT/Bonding, which is expected to generate more than \$350 million for additional highway construction, and one-cent for local government distributed under Motor Vehicle Highway Fund distribution formula.

Many Issues Considered During Regular Session

Other important legislation was approved during the regular session.

Senate Bill 20, authored by Sen. Zakas, authorizes the **Amber Alert plan**. The proposal will give law enforcement officials greater resources in the efforts to rescue children abducted by strangers. Arranged between Indiana's Missing Children Information Clearinghouse run by the State Police, and T.V. and radio stations around the state, the Amber Alert plan will help rescue abducted children by providing vital descriptive information of the case over the emergency broadcast system so the public may participate in the search.

Statistics show that the greatest enemy in child abduction cases is time. In 60 percent of cases, parents typically wait two hours before making the initial missing child report. As the hours since the abduction grow, the child's chance of survival decreases. According to the Child Alert Foundation, 74 percent of children murdered by non-family members are killed within the first three hours after their abduction.

"In these kinds of child abduction cases, time is of the essence," Zakas said. "The Amber Alert Program increases community awareness in the rare event of a stranger abduction and helps to disperse information when needed so that citizens become the eyes and ears of law enforcement."

Another bill, Senate Enrolled Act 482, which changed the Indiana law on **child solicitation**, was signed by the governor soon after session finished. According to a recent court decision, Indiana law before the legislation required an actual child, not an undercover police officer, to be the recipient of a solicitation in order to obtain a conviction. The new law will allow police to target child solicitors by posing as children on the Internet.

A study in the journal of the American Medical Association stated that one in five teenagers has been solicited over the Internet. One in seven solicitation attempts lures a child into actually meeting the predator.

"The action was taken because the internet gives predators a new method to reach our children," Zakas said, who was an author of the bill.

Another child protection law, Senate Enrolled Act 367, will strengthen **Indiana's sex offender registry law**. The current Indiana law, known as Zachary's law, is named for Zachary Snider who was 10 years old when he was killed by a sex offender in Cloverdale. Violent offenders who meet certain aggravating circumstances may be required to register for life.

SB 367 will modernize the registry process by requiring the following:

- Each county sheriff to maintain and update yearly a Web site with the sex offender's picture and home address in the county;

- A link to connect the state of Indiana Web site to each of the county sheriff's Web sites;
- A standard statewide form to register a sex offender; and
- A convicted sex and violent offender could not reside within one mile of the victim.

"Our children's well-being must be our highest priority in this state," Zakas said. "Adults who abuse a child's innocence and trust should be prosecuted to the fullest extent of the law. This legislation would help bring those who commit these heinous crimes to justice."

House Bill 1001 (regular session bill number) was filed in response to the terrorist attack on **(Issues cont'd on back)**

Students help free inmate through DNA testing

Last year the Indiana General Assembly passed Senate Bill 81. Authored by Sen. Joe Zakas, the bill provided for the introduction of DNA evidence for post-conviction relief in criminal cases. The following article from the March 2002 issues of Res Gestae, the Indiana State Bar Association magazine, describes the recent application of the new law.

Through the efforts of Indiana University School of Law-Indianapolis Prof. Fran Hardy and students in her Criminal Defense Clinic course, Larry Mayes is a free man after 21 years in prison.

Prof. Hardy and four students, Todd Ess, Edward Queen, Alicia Corder and Darlene Seymour, were appointed as pro bono counsel for Mayes by State Public Defender Susan Carpenter.

Hardy and her students filed the petition for post-conviction relief that resulted in Mayes being set free. In their petition, they cited I.C. 35-38-7, the Indiana law that went into effect last July and strengthened Indiana inmates' rights to DNA testing and analysis. Lake Superior Court No. 1, signed the order on Dec. 20, 2001.

Mayes, who had been convicted of several acts, including rape, was released on Dec. 21, 2001.

The class was part of a national program, The Innocence Network, an offshoot of The Innocence Project, www.car-doze.yu.edu/innocence_project/, founded in 1992 at the Benjamin Cardozo School of Law. The project's mission is the assist prisoners who can be exonerated through DNA testing of crime scene evidence..

Mayes is believed to be the third Indiana man to be released as a result of DNA testing, according to the records compiled by The Innocence Project.

"The real-world experience that our students acquire in clinical education is even more significant when their efforts establish the innocence of an imprisoned person. I am very proud of the work of Prof. Hardy and our students," said Normal Lefstein, dean of I.U. School of Law-Indianapolis.